

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 05

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 20 REVITALIZATION PROGRAMS

05.20.04 National Capital Strategic Economic Development Fund

Authority: Housing and Community Development Article, §§2-102(a)(7) and 4-510, Annotated Code of Maryland

Notice of Proposed Action [19-057-P]

The Secretary of Housing and Community Development proposes to adopt new Regulations .01—.10 under a new chapter, COMAR 05.20.04 National Capital Strategic Economic Development Fund.

Statement of Purpose

The purpose of this action is to describe policies and procedures for program administration under the National Capital Strategic Economic Development Fund.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The National Capital Strategic Economic Development Fund will provide grants to support community revitalization activities. General obligation bond expenditures in FY19 are \$1,000,000. Local governments, nonprofit organizations, and small businesses may benefit from the investment of NED funds in local projects, resulting in increased local economic activity and revenue.

II. Types of Economic Impact.

A. On issuing agency:	(E+)	\$60,815
B. On other State agencies:	NONE	
C. On local governments:	(R+)	Indeterminable

Revenue (R+/R-)

Expenditure (E+/E-)	Magnitude
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Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:		
Nonprofit organizations	(+)	Indeterminable
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. General obligation bond expenditures increase by \$1,000,000. General fund expenditures increase by \$60,815 in fiscal year 2020, which reflects ongoing administrative costs.

C. Local governments will benefit from increased public and private investment in their jurisdiction as well as a reduction in the public costs associated with disinvestment in distressed communities. This amount is indeterminable.

E. Nonprofit entities that qualify as a community development organization are eligible recipients of program funding. These entities should benefit because they will have access to funding and will not need to raise all their funds through private donations. The amount of economic benefit is indeterminable, but at maximum should be equivalent to the amount of program funding made available. In fiscal year 2019 this amount is \$1,000,000.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Small businesses may benefit directly or indirectly from program funding. To the extent that nonprofit community development organizations are also small businesses, they may benefit directly from program funding. Small businesses that are located in or near projects that are funded will benefit from increased public and private investment in the area. In addition, subcontracting opportunities may be available to small business on projects that are funded under the program.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Papagni, Program Officer, Division of Neighborhood Revitalization, Department of Housing and Community Development, 2 North Charles Street, Suite 450, Baltimore MD 21201, or call 410-209-5807, or email to john.papagni@maryland.gov, or fax to 410-685-8270. Comments will be accepted through April 15, 2019. A public hearing has not been scheduled.

.01 Purpose.

The purpose of this chapter is to prescribe the policies and procedures for providing grants for administering the National Capital Strategic Economic Development Fund.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means Housing and Community Development Article, Title 4, Subtitle 5, Annotated Code of Maryland.

(2) "Application" means an application to the Department as described in Regulation .04 of this chapter.

(3) "Commercial or residential development project" may include renovation and rehabilitation of single family homes, acquisition and rehabilitation of vacant homes for resale to new homebuyers, improvements to business properties, enhancement of community open space or public infrastructure, workforce and employment development programs, and such other projects as the Department may approve.

(4) "Community development organization (CDO)" means a nonprofit corporation, foundation, or any other nonprofit legal entity whose purpose is to implement a clear revitalization strategy.

(5) "Department" means the Department of Housing and Community Development, a principal department of the State.

(6) "Fund" means the National Capital Strategic Economic Development Fund established under Housing and Community Development Article, §4-510, Annotated Code of Maryland.

(7) "Grant agreement" means an agreement or agreements between the Department and a grantee to implement one or more projects.

(8) "Grantee" means a recipient of funds under the Program.

(9) "Nonprofit organization" means a corporation, foundation, or other legal entity that specifies in its charter or bylaws that no part of the net earnings may inure to the benefit of a private shareholder or individual holding any interest in the entity.

(10) "Program" means the National Capital Strategic Economic Development Fund established under the provisions of the Act.

(11) "Project" means a commercial or residential development project submitted by an applicant to the Secretary for approval in accordance with the Act and this chapter for site acquisition, land

assembly, architecture and engineering, and site development for revitalization.

(12) "Secretary" means the Secretary of Housing and Community Development.

(13) "Sustainable community" means the part of a priority funding area that has been designated a sustainable community under Housing and Community Development Article, §6-205, Annotated Code of Maryland.

.03 Eligible Applicants and Uses.

A. A grantee shall meet the following minimum requirements:

(1) Be a community development organization or a government agency;

(2) Not have defaulted on any prior financial assistance from the Department;

(3) Not be currently barred or suspended from any of the Department's programs;

(4) Have the legal capacity and all necessary legal authority to incur the obligations involved in the grant agreement;

(5) If a community development organization, be in good standing and qualified to do business in Maryland; and

(6) Provide evidence that the applicant has matching funds available for the project in the amounts required by Housing and Community Development Article, §4-510(g)(2), Annotated Code of Maryland, or in the competitive application round announcement.

B. Grants may be used for any predevelopment costs and expenses related to the development or implementation of a project as approved by the Department.

C. Appropriations to the Fund shall be allocated as follows:

(1) 85% for projects in those areas of the State located between Interstate Highway 495 and the District of Columbia; and

(2) 15% for projects throughout the State.

.04 Applications.

A. Applications for grants shall be accepted in one or more competitive rounds to be announced by the Department annually or as otherwise set forth in the Program guidelines.

B. An application submitted to the Department shall:

(1) Be on standard forms prescribed by the Department;

(2) Be submitted by a community development organization or government agency;

(3) Be for a project that:

(a) Is located within a designated sustainable community;

and

(b) Is for an eligible purpose;

(4) State the amount of grant requested;

(5) Provide a comprehensive description of the applicant and project including:

(a) The neighborhood revitalization plan that includes projects located in sustainable communities;

(b) A description of the community conditions and how the project or applicant will address those conditions;

(c) The ability of the project to address identified challenges within the community;

(d) A projected timeline for implementation of the project;

(e) The ability of the applicant to carry out the proposed project in accordance with the projected timeline;

(f) Other public and private resources available for implementing the project; and

(g) The social and economic opportunities created by the project;

(6) Provide a budget, in a form acceptable to the Department, that at a minimum shows anticipated project costs and expenses and anticipated sources of project revenue;

(7) Propose benchmarks for evaluating whether the proposed project results in a desired outcome such as community stabilization

or reversing the social, economic, and physical decline of the sustainable community in which the project is located;

(8) Describe any public input the applicant has received on the proposed project, including the nature and extent of the public support for or in opposition to the proposed project;

(9) If the project involves the applicant undertaking demolition, development, or rehabilitation, demonstrate:

(a) That, upon completion, the project will be in compliance with all applicable zoning requirements and standards as well as the applicable building code of the local jurisdiction in which the project is located; and

(b) The ability to gain site control of the project through ownership, leasehold interest, contract, option, or other written agreement satisfactory to the Department;

(10) Demonstrate that the project can be completed within the time period of the grant agreement, as determined by the Department;

(11) Contain the organizational documents of any applicant that is a community development organization;

(12) Describe whether historic properties or districts will be impacted and how the applicant will comply with the requirements of State Finance and Procurement Article, §§5A-325—5A-326, Annotated Code of Maryland, and Financial Institutions Article, §13-1112(b), Annotated Code of Maryland; and

(13) Include other information or documentation the Department may require.

C. An application for a grant may be submitted to fund one or more projects.

D. An applicant may file one or more applications in accordance with schedules established by the Department.

.05 Application Processing.

A. Each application shall be submitted to the Department to determine whether all of the information required under Regulation .04 of this chapter is contained in the application.

B. Each application shall include:

(1) The neighborhood revitalization plan and how the plan relates to the goals outlined in the community's larger sustainable communities plan;

(2) The description of the community conditions and the appropriateness of outlined strategies to address those conditions;

(3) The ability of each proposed project to address identified challenges within the community; and

(4) The capacity and experience of the applicant and the applicant's partners to complete the proposals and leverage additional financing.

C. Upon the Department's completion of the review and scoring of the applications, the Department shall make a recommendation to the Secretary on the applications.

D. Upon receipt of the Department's recommendation, the Secretary:

(1) May request additional information from the applicant or Department concerning the application, including oral presentations; and

(2) Shall act on the application by approving it, disapproving it, or approving it with modifications.

E. If the Secretary determines not to approve an application, the Department shall issue a written notice of denial.

F. Reconsideration.

(1) An applicant may request initial reconsideration of a denial by submitting a written request to the Department, which must be received by the Department within 30 days following the date of the denial notice.

(2) The request for reconsideration shall address each reason for the denial and provide documentation supporting reasons for reconsideration of the application.

(3) The Department shall respond in writing to the applicant's request for reconsideration within 90 days of receipt by the Department of the request for reconsideration.

(4) An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.02.

.06 Program Administration.

A. The Department may establish, from time to time, detailed program guidelines containing application schedules, procedures, underwriting standards, processing requirements, and other requirements or matters relating to the Program.

B. The Department may establish fees related to the processing of applications, underwriting, and servicing of grants.

C. The Department shall ensure that program guidelines, fee information, and application forms are publicly available on its website and at its offices.

D. After a grant has been awarded, the Department may:

(1) Determine specific terms and conditions of the grant;

(2) Enforce the terms of the grants according to their terms and conditions;

(3) Commence and pursue any action to protect or enforce any right conferred by law, contract, or other agreement;

(4) Modify any provision of any grant in order to facilitate the successful completion or operation of a project; and

(5) Exercise all powers authorized under the Act that are necessary or desirable for the implementation of the Program.

.07 Books and Accounts.

A. A grantee and the grantee's contractors and subcontractors shall maintain books, accounts, and records and shall file with the Department the financial and other reports the Department may from time to time require.

B. All of these books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.

C. Books, accounts, and records of designated third parties, contractors, and subcontractors shall be maintained and made available for inspection for 3 years past the date of termination of the contractual relationship between a contractor or subcontractor and a grantee.

D. A grantee shall submit reports to the Department on the progress or implementation of a project in accordance with an agreement with the Department.

.08 Nondiscrimination; Drug and Alcohol Free Workplace.

A. An applicant may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental disability, sexual orientation, gender identity, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in any aspect of the Program, or in any aspect of employment by any applicant in connection with any project financed or assisted under the Program.

B. An applicant shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug and alcohol free workplaces, including:

(1) Titles VI and VII of the Civil Rights Act of 1964, as amended;

(2) Title VIII of the Civil Rights Acts of 1968, as amended;

- (3) *The Fair Housing Amendments Act of 1988, as amended;*
 (4) *State Government Article, Title 20, Annotated Code of Maryland, as amended;*
 (5) *The Department's Minority Business Enterprise Program, as amended;*
 (6) *Executive Order 01.01.1989.18, Drug and Alcohol Free Workplace, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order; and*
 (7) *The Americans with Disabilities Act of 1990, as amended.*
 C. *Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties, and between applicants and other parties.*

.09 Waiver.

The Secretary may waive or vary provisions of this chapter to the extent that the waiver or variance is consistent with the Act and if, in the written determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

.10 False Statements.

A. *An individual may not knowingly make or cause to be made a false statement or report in any document required to be furnished to the Secretary or the Department by a grant agreement or any other document relating to financial assistance from the Department.*

B. *An individual applying for or benefiting from a grant agreement under the Program may not knowingly make or cause to be made a false statement or report for the purpose of influencing the action of the Secretary or the Department on an application or for the purpose of influencing the action of the Secretary or the Department affecting financial assistance already provided.*

C. *An individual who violates §A or B of this regulation is subject to immediate termination of the grant agreement provided by the Program and any other penalties authorized by law.*

KENNETH C. HOLT

Secretary of Housing and Community Development

Title 13B

MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 09 INSTITUTIONAL SEXUAL ASSAULT POLICIES

13B.09.01 Legal Representation Fund for Title IX Proceedings

Authority: Education Article, §§11-105(u) and 11-601, Annotated Code of Maryland

Notice of Proposed Action [19-056-P]

The Maryland Higher Education Commission proposes to adopt new Regulations .01—.07 under a new chapter, COMAR 13B.09.01 Legal Representation Fund for Title IX Proceedings, under a new subtitle, Subtitle 09 Institutional Sexual Assault Policies. This action was considered at an open meeting of the Commission held on December 12, 2018.

Statement of Purpose

The purpose of this action is to adopt regulations to implement certain requirements of Education Article, §11-601(d), Annotated Code of Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Geoff Newman, Assistant Secretary, Finance and Administration, Maryland Higher Education Commission, 6 N. Liberty St., 10th Floor, Baltimore, MD 21201, or call 410-767-3300, or email to geoff.newman@maryland.gov. Comments will be accepted through April 15, 2019. A public hearing has not been scheduled.

.01 Establishment.

A. *There is a Legal Representation Fund for Title IX Proceedings.*

B. *The Fund shall be administered by the Commission pursuant to Education Article, §11-601, Annotated Code of Maryland.*

.02 Definitions.

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *"Commission" means the Maryland Higher Education Commission.*

(2) *"Complainant" means a student or former student of an institution of higher education operating within the State who:*

(a) *Makes a complaint to an institution of higher education on which a formal Title IX investigation is initiated; and*

(b) *Was enrolled at the institution at the time of the incident that is the basis of the complaint.*

(3) *"Fund" means the Legal Representation Fund for Title IX Proceedings.*

(4) *"Respondent" means a current or former student of an institution of higher education operating within the State who:*

(a) *Responds to a complaint on which a formal Title IX investigation is initiated; and*

(b) *Was enrolled as a student at the institution at the time of the incident that is the basis of the complaint.*

(5) *"Secretary" means the Secretary of Higher Education.*

(6) *"Title IX proceeding" or "Title IX investigation" means an institution's formal process of investigating and resolving a written complaint under Title IX of the federal Education Amendments of 1972, 20 U.S.C. §1681, as amended.*

.03 Institutional Policies.

A. *Each institution of higher education that is required to adopt a sexual assault policy under Education Article, §11-601, Annotated Code of Maryland, shall include within the policy provisions that a complainant or respondent may:*

(1) *Obtain from the Commission, through its website, a list of licensed attorneys who have indicated that they will represent complainants or respondents in Title IX proceedings on a pro bono basis or for reduced legal fees; and*

(2) *Through the complainant's or respondent's attorney, seek reimbursement of certain legal costs and fees from the Commission's*